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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,903	09/05/2003	Eugen Kloos	LZ-78	1549

7590
Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

01/26/2006

EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,903	KLOOS ET AL.	
	Examiner	Art Unit	
	Bradley T. King	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/14/2005 has been entered.

Claim Objections

Claim 1 is objected to because of the following informalities: the limitation "at rest and when it is being actuated" is awkward and would be clearer if "it" was removed. For instance, "at rest and when actuated". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 5-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 has been amended to require “the caliper has a radial opening in a bridge area extending across the brake disk, while in an area where the brake pads make contact with the disk the caliper is closed, so that the brake pads are supported axially over an entire width thereof”. While the original disclosure provides antecedent basis for the limitation, the details of the caliper arrangement are not sufficiently described in a manner which enables one skilled in the art to make or use the device. Specifically, the “closed” portion and its interaction with the pads and disk such that the pads are “supported axially over an entire width thereof” is not adequately described or illustrated. The drawings do not show any interaction with the axial ends of the pads other than plate 6 which does not appear to be considered part of the caliper. It is also not clear from the disclosure if the above noted structural is applicable to the recited sliding caliper, hinged caliper or fixed caliper brakes.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites “an opening”. It is not clear if this opening corresponds to the previously recited “radial opening” or is a new opening.

Claims 10-11 both recite "the opening". It is not clear which of the previously recited opening corresponds to "the opening".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-10, 12, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiel et al (US 5464077).

Thiel et al disclose all the limitations of the instant claims including: a brake disk having a preferred rotational direction; a first brake pad 5 or 7 having a first center of gravity 35 or 37 on a first side of the brake disk 10; a second brake pad 6 having a second center of gravity 36 on a second side of the brake disk; a caliper 11 for transmitting braking forces produced by the second brake pad to the first side of the brake disk, and a clamping device 11 or 12 which has a center axis and is configured to push the first brake pad 5 or 7 against the brake disk, wherein the center axis is perpendicular to the main plane of the brake disk and extends through the first center of gravity 35 or 37, wherein the second center of gravity 36 is offset, both when the brake is at rest and when it is being actuated, from the first center of gravity 35 or 37 by a predetermined distance in the direction toward the side of the brake disk which trails when the disk is rotating in the preferred rotational direction, wherein the two centers of

gravity are the same radial distance away from the center axis of the brake disk, and wherein the caliper 1 has a radial opening 2-4 in a bridge area extending across the brake disk, while in an area where the brake pads make contact with the disk the caliper is closed. See figure 1. Regarding the feature of the brake pads being supported axially over an entire width thereof, please note the 112 1st rejection above. Thiel appears to show this feature as best understood. Note the right side of figure 5.

Regarding claims 6-7, brake pads (5 or 7) and 6 have different configurations and/or weight distributions which determine the location of the centers and therefore are responsible "at least in part" for the offset along with the locations of the pads.

Regarding claim 8, figure 3 shows a wedge shaped cross-section as broadly defined by the claim.

Regarding claims 12-13, elements 19 is a plate shaped bracket and the lower portion can be considered an axle part as broadly defined by the claims.

Regarding claim 14, Thiel et al show a sliding caliper.

Regarding claim 15, the brake is capable of use on commercial vehicles.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thiel et al (US# 5464077).

Thiel et al disclose all the limitations of the instant claims with exception to the disclosure of the opening having a parallelogram contour. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a parallelogram shape for the opening 2 or 3 or 4 (or 2-4 together) as an obvious design variant, thereby providing a visually appealing structure and/or improving access to the pads. Also note *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) regarding the non-obviousness of changes in shape.

Response to Arguments

Applicant's arguments with respect to Evans have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK

 1/20/06
BRADLEY KING
PATENT EXAMINER